

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
ATLANTA BRANCH OFFICE

WISCONSIN BELL, INC., an AMERITECH
CORPORATION, d/b/a SBC MIDWEST

and

Case 30–CA–16442–1

COMMUNICATIONS WORKERS OF AMERICA,
LOCAL 4603, AFL-CIO

Andrew S. Gollin, Esq., for the General Counsel.
Andrew Slobodien and Brian R. Carnie, Esqs., for the
Respondent.
Marianne G. Robbins, Esq., for the Charging Party.

DECISION

Statement of the Case

George Carson II, Administrative Law Judge. This case was tried in Milwaukee, Wisconsin, on July 22 and 23, 2004, pursuant to an amended and corrected complaint that issued on April 14, 2004.¹ The complaint alleges that the Respondent failed and refused to provide the Union with requested relevant information in violation of Section 8(a)(5) of the National Labor Relations Act. The Respondent's answer denies all violations of the Act. I find that the Respondent did fail to provide requested relevant information. I further find that the record does not establish that the pricing information sought is relevant to the Union's request.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by all parties, I make the following²

Findings of Fact

I. Jurisdiction

The Respondent, Wisconsin Bell, Inc., an Ameritech Corporation, d/b/a SBC Midwest,³ the Company, is a corporation engaged in operating a telephone communications system throughout the State of Wisconsin including facilities in Milwaukee, Wisconsin. The Company, in conducting its business, annually derives gross revenues in excess of \$100,000 and ships products and materials valued in excess of \$5,000 directly to customers located outside the State of Wisconsin. The Company admits, and I find and conclude, that it is an employer

¹ All dates are in 2003 unless otherwise indicated. The charge in Case 30–CA–16442–1 was filed on April 17.

² There was no objection to receipt of the formal papers. Review of the transcript reveals that I failed to formally receive them. General Counsel's Exh. 1(a) through (n) is received.

³ The name of the Company, which has changed, was amended at the hearing.

engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

The Respondent admits, and I find and conclude, that Communications Workers of America, Local 4603, AFL-CIO, the Union, is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

A. *The Contractual Context of this Case*

This case arises under the terms of the collective-bargaining agreement that was in effect between the Company and International Union from February 1, 2001, until April 3, 2004. The Midwest area covered by the agreement includes employees in Wisconsin, Michigan, Illinois, Indiana, and Ohio. Separate local unions, all administratively a part of District 4 of the International, represent employees at various locations throughout the SBC Midwest system. In Wisconsin, Local 4603 represents employees in what is referred to as the Milwaukee Expanded Hometown Job Area, which includes the Milwaukee metropolitan area and adjacent counties.

Under the contract, first step grievances are filed with the direct supervisor of the employee or employees affected. At the second step, the “the next higher level management representative” responds. At the third step, the final step before arbitration, the grievance is considered by the “appropriate Labor Relations Executive Director” or designee and a designee of the International Union. In Milwaukee, the company representative is Peggy Texeira, Case Manager for Labor Relations for the State of Wisconsin, and the union representative is George Walls, President of Local 4603. The Company, in its answer, admits that the appropriate unit consists of the employees of the Respondent described in Article 1.01 and Appendix B of the collective-bargaining agreement.

The collective-bargaining agreement, Article 26.34 provides as follows:

The Company shall decide the necessity for and shall determine the extent of any force adjustment. ... There shall be no layoff of regular full-time employees if there are any outside contractors performing the same work, in the same work group, at the same location, as performed by the Surplus Employee Group.

A Memorandum of Agreement, A10, titled Contracting Out, provides, in pertinent part:

While the Company cannot make specific commitments regarding the contracting out of work, it is the Company’s general policy that traditional telephone work will not be contracted out if it will currently and directly cause layoffs or part-timing of regular employees in the Bargaining Unit.”

A Memorandum of Agreement, A11, Contracting Out Review, provides for quarterly meetings between the Company and the International Union to “review traditional telephone work identified by the Union that has been contracted out.” The memorandum states that the Company will provide “the following information regarding the identified subcontracted work:”

The name(s) of the contractor(s), the nature of the work; the zip code(s) of the location(s) where the work was performed; and, if available, the number of hours of work subcontracted and associated costs, provided such information is not considered proprietary information and the disclosure of such information is not detrimental to the operation of the business.

A document to which the parties refer as the "catch all letter," signed on April 17, 2001, the date the contract was executed, contains miscellaneous matters including paragraph 2 which includes the provision that "[u]pon written request by the Local President, the Company will provide the Union with all information and documentation as required under the National Labor Relations Act for grievances and all other matters. If there is any dispute regarding the requested information, the matter will be decided by the National Labor Relations Board (NLRB)." In its answer, the Respondent pleads that "Local 4603 is not a proper party to this proceeding" and, in its brief, argues that Local 4603 did not have the "right to obtain contract information from the Company." The Company contends that the catch all letter relates only to requests for personnel documents and cites the testimony of Executive Director of Labor Relations Greg Glenn that, in 2001, discussion of paragraph 2 of the letter related to personnel files. The contract provides that grievances are handled by the local union through the second step. Glenn acknowledged that local union presidents are involved in grievances that do not relate to personnel files and that they "need information on those other grievances too." President Walls testified that the language contained in paragraph 2 of the catch all letter is what the parties agreed to in 2001. Glenn did not dispute that the parties agreed, as stated in paragraph 2, that "[u]pon written request by the Local President, the Company will provide the Union with all information and documentation as required under the National Labor Relations Act for grievances and all other matters." Manager Texeira, who consulted with Glenn before responding to the Union's information requests, did not inform the Union that Glenn disputed the right of the local union president to request information. I reject any contention that Local 4603 did not have the right to request information relevant to the employees that it represents.

B. The Information Request of March 31

1. Events preceding the request

The complaint alleges the failure to the Company to provide relevant information relating to contracting that was requested by the Union in an e-mail dated March 31. Although various requests were made prior to March 31, it is the failure of the Company to respond to that request that is alleged in the complaint. That is the only issue before me in this proceeding.

In September 2002, the Company announced that it was declaring a "surplus" that would occur after 90 days. The declaration of the surplus, effectively the announcement of an impending layoff, triggered the right of senior employees whose positions were identified as "surplus" to bump junior employees whose jobs they were qualified to perform. The Company identified the various positions that it was declaring as surplus, a total of approximately 200 in the Midwest area, approximately 60 in Wisconsin, and approximately 30 employees represented by Local 4603, the Union, in the Milwaukee Expanded Hometown Job Area. Included among those positions in Milwaukee was a 15-man construction line crew.

In late November 2002, James Courchane, Vice President of the Union, filed a grievance alleging violation of Article 26.34 of the collective-bargaining agreement that stated: "There are contractors working in Milwaukee and throughout the state of Wisconsin that are doing Bargaining Unit Work that our trained surplus employees could and should be doing." The Union's position was that "[a]ny and all work presently being done by contractors, as stated above, should be given to our surplus employees." On December 2, 2002, Vice President Courchane signed an information request relating to the foregoing grievance in which he requested, among other information, a list of contractors performing work in Milwaukee and Wisconsin, where they were working and the type of work they were performing, and "cost breakdowns on the jobs they are working on."

The bulk of employees laid off as a result of the declaration of the surplus were laid off on December 27, 2002. Thereafter, on December 31, 2002, and on various dates in early 2003, the Union filed 11 individual grievances on occasions when it learned of contractors performing bargaining unit work. These grievances were accompanied by information requests including, in several instances, requests for, “[a]n up to date list of all contractors performing any bargaining unit work for S.B.C. in all Milwaukee EHJA [Extended Hometown Job Area], as well as all associated job or requisition numbers, job descriptions, and locations where the contractors are working. We are requesting the contract that was signed between S.B.C. and all contractors performing work for S.B.C. in Wisconsin.” President Walls began signing these requests and sent one by facsimile to Manager Texeira. The document states that the Union is seeking the information “[i]n order to make a determination as to whether a valid grievance exists, of if an existing grievance should be elevated to the next step”

John McChesney, a first line construction manager, recalled that, when several of these information requests were filed with him, he consulted with Area Construction Manager Bob Bareta who informed him that he was “not to give them anything.” This position changed and, in response to the request for job descriptions, the Company provided the job descriptions of unit employees from the collective-bargaining agreement. The Company also provided a blank form contract that individual contractors entered into with the Company. When an “undertaking” number covering the contracted work was specified in a grievance, the Company provided work prints showing the particular work being performed by the contractor that was the subject of the individual grievance. McChesney acknowledged that the work prints given to the Union related to the specific work to which the grievance related, work that the Union already knew was being performed by contractors. The Company did not provide work prints reflecting other work that the contractor was performing. At first step grievance meetings, McChesney informed the union steward who presented the grievance that any additional information would be provided by Manager Peggy Texeira at the third step of the grievance procedure.

Several of the Company’s responses set out a Company position stating that Article 26.34 was supplemented by Appendix A-10, that “contractors have not caused layoffs or part timing of regular employees ... and that contractors will continue to be utilized.” The response also refers to the quarterly contracting out review meeting and states that “at this Review the Union is given all relevant data pertaining to specific work, location and names of all contractors.” Manager Texeira testified that, prior to the foregoing response being presented to the Union, first line manager McChesney read it to her and that she approved it.

Notwithstanding her approval of the foregoing response, Texeira testified that she was unaware that the Union was claiming that the Company had violated Article 26.34 of the collective-bargaining agreement until the third step grievance meeting, which was held on November 10. The foregoing inexplicable testimony suggests that she did not recall the substance of the response that she approved or of the e-mail sent to her by President George Walls on March 31, the request that is the basis for this proceeding. Pursuant to directions that she received from her superior, Executive Director of Labor Relations Greg Glenn, Texeira continually informed the Union that the Company would not provide information regarding pricing or individual contracts because “that was proprietary information and we were not going to give that information out.” Texeira could recall giving no explanation for the basis of the claim that the information was proprietary. She acknowledged that she made no proposal to seek an accommodation or provide information in lieu of the specific information requested.

On March 13, President Walls and two presidents of other Wisconsin local unions met with Bareta and other management officials including Bareta’s superior, Karen James, who

appeared to be receptive to Wall's request for information. On March 19, James provided Walls with the approved bidders contractors list but informed him that she had "been informed by labor" that the "associated bid prices" were "proprietary information" and could not be provided.

5 On March 26, a second step meeting on several of the Union's pending grievances was held. Construction Manager Bareta reiterated the Company position regarding pricing being proprietary. Vice President Courchane stated to Bareta that the information that the Union had received was "not what we were looking for," and explained that it did not "give us any of the information we need to process our grievances and determine to what extent contracting was
10 going on and how much work was being done." Referring to the blank contracts that had been provided, Courchane noted that page 22 referred to attachments and bid documents, and asked for the signed agreements "that would contain the attachments and bid documents and specifications" as noted on page 22 of the blank contracts that the Union had been given.

15 As this meeting was concluding, there was discussion regarding controlling the number of grievances being filed. An agreement was reached pursuant to which inspectors, unit employees, would identify work being performed by contractors, and the Union would file only one grievance a month. This arrangement was not successful because most of the inspectors refused to fill out the documents. The list was kept at only one of five locations from which
20 construction employees were dispatched. Bareta admitted that he did not direct the inspectors to maintain the list. Rather, he gave them the document upon which the information was to be recorded and stated, "The Union would like you to fill this out." Thereafter, Bareta and Shop Steward Dave Hillshiem discussed the failure of the arrangement. Hillshiem commented that it appeared to be a management problem. Bareta responded that he would begin taking
25 disciplinary action. Bareta admitted that he understood that Hillshiem would not want him to do that and, predictably, Hillshiem told him not to do so, that he would get back with him. There was no further discussion. Bareta testified that inspectors have access to a confidential software data system, the ACAS system, into which work requests for contractors are entered. He confirmed that any breach of security by employees having access to that system would result
30 in disciplinary action. I find that the absence of a specific direction from Bareta in the context of the Company's security procedures accounts for the failure of this arrangement.

 As of March 26, the Union had filed numerous information requests. Although filed with individual grievances, the requests sought information relating to the full extent of the
35 contracting in which the Company was engaging. The Company had provided job descriptions of unit members, blank contracts, and work prints for jobs that the Union was aware were being performed by contractors. At the March 26 meeting, Vice President Courchane explained to Bareta that the information provided did not enable the Union to determine to what extent contracting was going on. It is in that context that the Union made its request of March 31.

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2. The request of March 31

On March 31, 2003, President Walls sent Manager Texeira the following e-mail.

45 As you know, the Union has made a number of information requests regarding the contracting of work.

As you further know, the Union has filed a number of grievances charging a violation of Article 26.34 and Appendix A-10. This information is relevant in the processing of these grievances.

We have approximately 60 people laid off in the State of Wisconsin. The Union's position

is our laid off employees should be given the opportunity to do this work before contracting this work. We believe the contracting is a direct violation of Article 26.34.

5 Initially, when the information requests were made at the first step of the grievance procedure by the Stewards, they were told by first level management you advised them not to give the Union this information and you would decide at the 3rd step of the grievance procedure what information would be given to the Union.

10 I then made a second request for this information under my signature per the “Catch All Letter”.

In a later conversation you, you told me this information was given to Larry Handley and I should get it from him per Fred Eder.

15 In a meeting with the WI [Wisconsin] General Managers on March 13, 2003, I again made this verbal request. Bob Baretta [sic] stated at this meeting he was told by Peggy Texeira not to give the Union this information. In a later conversation with you, you stated this is not what you told him.

20 In a 2nd step grievance meeting on March 26, 2003, Bob Baretta [sic] furnished some limited inform to James Courchane.

25 I’m formally requesting an up to date list of all work being contracted out by SBC in the following units, E&C [Engineering and Construction], I/M: [Infrastructure Maintenance], I/R [Installation and Repair] and NP&E [Network Planning and Engineering] starting in February of this year in the Milwaukee Expanded Hometown Job Area. This list should include the contractor performing the work, a description of all the work being done, location of work being done, pricing for the work being done and a copy of the contract.

30 I believe we are legally entitled to this information.

Please provide this information to me within (10) days.

35 If you are unwilling to comply with this request, please respond in writing as to why you will not.

Thank you for your cooperation in this matter.

3. Events subsequent to the request of March 31

40 Manager Texeira did not respond in writing. In a telephone conversation, she repeated to Walls that the company was not going to give the Union “the pricing ... [or] the individual contracts.” Texeira could recall giving no explanation for the basis of the claim than the information was proprietary. No alternatives were discussed. Texeira acknowledged that she
45 made no proposal to seek an accommodation or provide information in lieu of the specific information requested. The Union filed the charge herein on April 17.

The reference to Larry Handley and Fred Elder in Walls’ letter relates to information regarding contracting given on a quarterly basis pursuant to Appendix A11. Wall attended that meeting on July 3 and was given copies of the multiple documents provided to all participants. Those documents identify contractors performing work and the nature and location, by city or municipality, of the work they are performing. The documents do not quantify the work being

performed, and Walls was unable “to determine much of anything from them.”

Walls testified that the documents were inadequate, explaining that they show that a contractor was placing aerial cable but “it doesn't tell me if it's one span or twenty spans, if there is terminals involved.” He informed Texeira that the information was inadequate, that there was no way that the Union “could determine what was being contracted or how much work was being contracted.”

Manager Texeira acknowledged that she understood that Walls was seeking “a description of all work being done as described in his March letter.” She admitted that she knew that, after Walls returned from the quarterly meeting in July, that “he believed that he had still not gotten a description of all work done ... [and] he still wanted a description of all work done.”

With regard to the inadequacy of the documents provided at the contract review, Director Greg Glenn was asked whether he would agree, from the documents, that the Union could not tell how much work was being performed, that “[y]ou can't tell whether it was a crew of four guys working steady for a month or it was a repair job that would be done by one guy in half a day?” Glenn answered, “I think that's a fair statement.”

The third step meeting on the Union's grievances was held on November 10. At the outset of that meeting, Walls pointed out that the Union, although having been provided some information, had still not received the information that would fulfill his March 31 e-mail request. Manager Texeira testified that, at that meeting, she realized that the layoff of the construction line crew was an issue under Article 26.34 and stated her intention to investigate further. By letter dated December 8, the Company proposed a settlement of all 12 pending grievances by reestablishment of the line crew, but without recalling the specific employees affected. The proposal noted that the reestablished crew would be assigned 12% of the work. Walls wanted to know how the 12% was determined. Texeira did not provide the requested information. The Union rejected the proposal. After further discussions, the Company sent the Union a letter dated March 11, 2004, providing simply that the recalled crew would be assigned “the same percentage of line crew work that was done prior the December 27, 2002, surplus.” Both letters contained a paragraph reiterating the Company's position that it would not disclose “individual contracts and/or pricing of those contracts” to the Union. The Union denied being aware of the March 11, 2004, letter until June 2004. None of the foregoing is of any relevance to the outstanding information request of March 31 because the Company withdrew the settlement offer on June 25, 2004, and denied all 12 grievances.

C. Information Disclosed at the Hearing

Associate Director of Contract Administration Kathy Fransens explained that the “sample master agreement,” i.e. the blank form contracts provided to the Union, is similar to the contracts executed by the contractors. Only two contracts are executed. The Company keeps its copy of these contracts, a total of between 200 and 250, in a locked file cabinet at its main office in Hoffman Estates, Illinois. Only Fransens and two other people have keys to the locked file cabinet in which they are kept. When executed, the contract has a cover page showing the name of the contractor, the signature page containing the appropriate signatures, and an attachment setting out the rates charged by that contractor for approximately 450 specific items of work such as digging a trench, burying cable, or installing a pedestal. The work items are identified by code numbers assigned by the Company. Fransens testified that the code number and the item of work that it identifies are not confidential. The contract does not establish what work the contractor will actually be doing. Rather, as Fransens explained, “they're telling us they can do this work for what rate.”

The actual awarding of work assignments occurs when a manager in the field submits a work request to a contract administration center (CAC). There are several centers in the SBC Midwest system including at least one in Wisconsin. The record does not establish the total number of centers or their specific locations. Area Construction Manager Bareta explained that the “CAC center collects all the work requests from the State and dishes out the work to the contractors through a computer system.” The computer system is referred to as the ACAS system, a software program specially designed for the needs of the Company.

Manager Bareta explained that the work requests transmitted to the CAC would describe the work needed to be done using the code numbers related to the work item, “[i]t would be an item number, and -- and by that I mean if they’re going to place cable it would be an item AP25 *and the footage of the cable they’re going to place.*” [Emphasis added.] Fransens confirmed that the construction managers cost out jobs by putting “a list of items they need” and submitting it to the CAC. She further explained that an item of work identified by its code number “describes what type of work they’re requesting, like an item signifies if they want a trench 36 inches deep, if they want a bore 2 inches.” Fransens, consistent with the testimony of Bareta, stated that, in addition to the code signifying the item of work, there is also designation of the quantity, “some numerical amount like the number of pedestals or the length of cable.”

Work requests from the field become purchase orders when entered into the ACAS system. The purchase order reflects the code number for the type of work, the quantity, and the price. By simple division, e.g. \$1,000 to lay 1000 feet of cable, it could be determined that that the contractor’s bid price was \$1 a foot. Fransens testified that the “initial awarded purchase order” contains the quantity of work being ordered, and that change orders are reflected on the purchase order but do not show quantity or cost. As hereinafter noted, work prints do reflect the quantity of work performed. A typical purchase order, according to Fransens, would contain between 3 to 8 item numbers, i.e., specific work tasks such as digging a trench and laying cable in the trench. The quantities, as such, are not considered to be confidential.

Fransens testified that work prints, the documents provided to the Union regarding the work the Union had identified as being performed by contractors, are considered confidential and are returned to the Company upon completion of the work so that the Company can “see what work was done.” The work prints show the quantity of work performed, e.g., the number of feet of cable that has been laid. They also show the specific location where the work was performed. Work prints are identified by an EWO number, referred to by managers John McChesney and Bob Bareta as an undertaking or UT number.

D. Analysis and Concluding Findings

The complaint alleges that the Company failed to provide relevant information relating to contracting that was requested by the Union in Walls’ e-mail dated March 31.

The Respondent contends that the Union was not entitled to pricing information. I agree. The request of the Union alleged in the complaint was, as set out in the e-mail, for “an up to date list of all work being contracted out by SBC ... [that] should include the contractor performing the work, a description of all the work being done, location of work being done, pricing for the work being done and a copy of the contract.” The pricing information is not relevant to the quantity of contracting that was occurring. The information the Union needed was the purchase orders which would show the amount of work being contracted. The testimony of Fransens and Bareta establishes that the pricing information and copies of the contracts would not fulfill that request. The pricing information and contracts, considered proprietary by the

Respondent, even if provided, would not have been relevant.

Although information unrelated to unit employees is not presumptively relevant, information relating to subcontracting which impacts the working conditions of unit employees is relevant. See *Phoenix Coca-Cola Bottling Co.*, 337 NLRB 1239 (2002), and *Pratt & Lambert, Inc.*, 319 NLRB 529, 533 (1995). Furthermore, the information sought need not be sought with respect to a specific grievance insofar as the information is related to “the possible processing of ... [potential] grievances.” *Schrock Cabinet Company*, 339 NLRB No. 29, fn. 6. (2003).

The Respondent argues that the Union never established the relevance of information relating to the quantification of the contracting that was occurring. I disagree. From the initial grievance filed in November, citing the Union’s position that unit work was being performed by contractors and that the surplus unit employees should be given that work, the Union clearly explained the relevance of the information being sought. Walls, in his e-mail request of March 31, stated, “As you know, the Union has made a number of information requests regarding the contracting of work. As you further know, the Union has filed a number of grievances charging a violation of Article 26.34 and Appendix A-10. This information is relevant in the processing of these grievances. We have approximately 60 people laid off in the State of Wisconsin. The Union’s position is our laid off employees should be given the opportunity to do this work before contracting this work. We believe the contracting is a direct violation of Article 26.34.” Case Manager Texeira, when asked whether, to prevail upon the Union’s grievances, Walls was “going to need to establish ... the extent of the work?” answered that “he needs to from his point of argument.” The Union established the relevance of its information requests.

It appears that the Union, in requesting copies of the contracts, thought that the contractor performing a particular job had bid upon it and been awarded it pursuant to the terms of an individual contract. It is unclear whether Manager Texeira was aware of the information in the possession of the Respondent. When asked whether, “sitting here today the only information the -- that the Company has identified that will show the extent [of the contracting] involves pricing?” Texeira answered, “From what I know of, yes.” The testimony of Bareta and Fransens establishes that, although purchase orders reflect pricing, they also reflect the quantity of the work being contracted. Texeira did not state to the Union the basis for the Company’s claim that pricing and contract information was proprietary. She did not explain to the Union that, in asking for the contracts, it was asking for documents that reflected each contractor’s rate for performing 450 particular tasks. Nor did she explain that there were no separate contracts reflecting the specific work that any contractor was doing at a particular site on any given day.

Texeira acknowledged that she contacted Director Greg Glenn about what action she should take regarding the Union’s request. In further testimony regarding her contacts concerning refusing to turn over the information, Texeira testified that “they didn’t want to do that. It was proprietary.” When asked who “they” were, Texeira answered that “there was a bunch of people who were looking at this.” The record does not establish whether the Union’s request of March 31 was sent to the “bunch of people.” If it was, the “bunch of people,” which should have included Glenn, certainly should have read that the Union was seeking “an up to date list of all work being contracted out by Respondent” in specific areas. Even if the document was not provided, Glenn, before advising Texeira regarding the Company’s response, should have ascertained exactly what the Union was seeking before responding that the information was proprietary. If the Respondent had addressed the request for “all work being contracted out,” the Respondent should have known that the information that would fulfill the Union’s request could be provided by redacting the pricing information.

In addition to the request for “all work being contracted out,” the Union specifically requested a “description of all the work being done” and its location. The information provided at the quarterly meeting in July provided the name of the contractor and city or municipality, but not the amount of work or its specific location. In order to determine whether Article 26.34 was being violated, the Union needed information showing that there were “outside contractors performing the same work, in the same work group, at the same location” as the laid off unit employees. The testimony of Fransens and Bareta establishes that the specific work being done can be identified by the code number relating the work item. The location, which according to McChesney might appear on the purchase order, does appear on the work prints which are identified by a EWO number, referred to as an undertaking or UT number.

The Charging Party concedes that the information disclosed at the hearing reveals that the Union’s request can be accommodated without revealing pricing. As noted in the Charging Party’s brief at footnote 14: “If the quantity and identity of the work were clear from the purchase order without the aggregate pricing, this could be redacted.”

Similarly, the General Counsel points out that the “Respondent also could have proposed providing Local 4603 with print outs from the ACAS system for each job that was contracted-out with the description codes and quantity amounts, with the pricing information redacted.”

The testimony of Fransens and Bareta suggests that Texeira was not fully aware of the manner in which the Respondent handled contracting. The record further suggests that Glenn did not seek to determine specifically what the Union was requesting but simply responded to questions from Texeira regarding pricing and contracts. Regardless of any failures in communication among the Respondent’s management regarding what the Union was seeking, the Union’s request of March 31 clearly states that it was requesting a “list of all work being contracted out by Respondent” in specified areas. The Respondent did not provide the information. Nor did the Respondent seek an accommodation by explaining to the Union that, although the information that it requested was available, it was only available in conjunction with purchase orders which stated the cost and was proprietary information. “An employer is not relieved of its obligation to turn over relevant information simply by invoking concerns about confidentiality, but must offer to accommodate both its concerns and its bargaining obligation ...” *Metropolitan Edison Co.*, 330 NLRB 107 (1999), citing *U.S. Testing Co. v. NLRB*, 160 F.3d 14, 20-21 (D.C. Cir. 1998).

I have found that the pricing information, which can be redacted from the purchase orders, is not relevant to the request of the Union relating to the amount of contracting by the Respondent. On the basis of the foregoing acknowledgements by the General Counsel and the Charging Party, I find no need to direct disclosure of the individual contracts executed by the contractors performing work in the jurisdiction of the Union. The Respondent sought no accommodation with the Union regarding providing the requested information. The Respondent, in failing and refusing to provide “an up to date list of all work being contracted out by Respondent,” the contractor performing the work, and a description of the work and its location, as specified in the Union’s e-mail of March 31, violated Section 8(a)(5) of the Act.

Conclusions of Law

By failing and refusing to provide the Union with the information it requested regarding subcontracting, said information being relevant and necessary to the Union as the collective-bargaining representative of the unit employees it represents, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and

Section 2(6) and (7) of the Act.

Remedy

5 Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and post an appropriate notice.

10 The Respondent having failed and refused to provide the Union with information it requested on March 31, 2003, for an up to date list of all work being contracted out by the Respondent in the Milwaukee Expanded Hometown Job Area in the E&C [Engineering and Construction], I/M: [Infrastructure Maintenance], I/R [Installation and Repair] and NP&E [Network Planning and Engineering] work units, including the identity of the contractor performing the work, a description of all the work being done, and the location of the work being done, it must provide that information. The Respondent has failed since March 31, 2003, to respond to the Union's request. Insofar as that request was not limited to the pending grievances and in view of the denial of the pending grievances on June 25, 2004, the Respondent must provide the foregoing information from February 2003 until the date of compliance with this decision. I find that the foregoing information can be provided by providing the purchase orders for contracting within the jurisdiction of the Union from February 2003 to the date of compliance with this decision, with the price being redacted, together with any applicable change orders.⁴ If the information provided on the redacted purchase orders is insufficient, such as work performed pursuant to a change order that does not specify the quantity of work or insufficient specificity regarding the location at which the work was performed, work prints must be provided. Consistent with my decision, the Respondent does not need to provide the pricing for the contracted work or the contract between the Respondent and the contractor. The Respondent also need not provide information regarding employees not represented by the Union.⁵

30 On these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁶

ORDER

35 The Respondent, Wisconsin Bell, Inc., an Ameritech Corporation, d/b/a SBC Midwest, Milwaukee, Wisconsin, its officers, agents, successors, and assigns, shall

1. Cease and desist from

40 (a) Refusing to bargain collectively with Communications Workers of America, Local 4603, AFL-CIO, by failing and refusing to provide requested information that is relevant and

⁴ There is reference in Fransens' testimony to an item usage report. I do not order its production because the record does not establish that it would fulfill the Union's request

45 ⁵ Walls acknowledged that that NP&E is "[s]ometimes ... and sometimes ... not" a part of "network." The foregoing does not establish whether, when not part of the "network," these employees were represented by Local 4603. If they were, I intend for the recommended order to include them.

⁶ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

necessary to it as the collective-bargaining representative of employees in the appropriate unit as defined in the collective-bargaining agreement between the International Union and the Respondent.

5 (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

10 (a) Promptly furnish the Union with the information found to have been unlawfully withheld as set forth in the remedy section of this decision.

(b) Within 14 days after service by the Region, post at all of its facilities at which employees are represented by the Union, copies of the attached notice marked "Appendix."⁷
 15 Copies of the notice, on forms provided by the Regional Director for Region 30, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall
 20 be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since March 31, 2003.

25 (c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

30 IT IS ALSO ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C. September 15, 2004

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 George Carson II
 Administrative Law Judge

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⁷ If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain collectively with Communications Workers of America, Local 4603, AFL-CIO, by failing and refusing to provide requested information that is relevant and necessary to it as the collective-bargaining representative of employees in the appropriate unit as defined in the collective-bargaining agreement between the International Union and the Company, and WE WILL promptly furnish the information it requested on March 31, 2003, as set out in the remedy section of the decision.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce any of you in the exercise of your rights guaranteed by Section 7 of the Act.

WISCONSIN BELL, INC., an AMERITECH
CORPORATION, d/b/a SBC MIDWEST

(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

310 West Wisconsin Avenue, Federal Plaza, Suite 700, Milwaukee WI 53203-2211

(414) 297-3861, Hours: 8 a.m. to 4:30 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (414) 297-3819